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Congress of the United States

House of Representatives

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July 27, 2004

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Henry
Dear Mr. Waxman:

In your letter to me today, you have reached a new low in election-year hysteria. While your letter pays lip service to the bipartisan cooperation we have enjoyed during my tenure as Chairman, the implications and insinuations it contains only serve to highlight the partisan myopia that now drives your agenda.

The fact that, rather than engage me in a dialogue on this matter, you sent this letter to the press simply highlights the blatantly political nature of your interest in the Committee's oversight plan.

Your letter makes it abundantly clear that, were the Democrats to retake the House, you would wield your chairmanship as a partisan launching pad to divide this country. That is sad, but I will not rise to the bait.

It is unfortunate that you instinctively assume the investigation into the Berger matter has anything to do with Sandy Berger, the Democrat. The fact is, I don't care if it's Sandy Berger or Warren Burger or Veggie Burger who walked off with "code word" documents. It's the walking off – the consequences of it, the fact that it could happen – that concerns the Committee.

Those consequences include raising questions about portions of the 9/11 Commission report that purport to rely on documents produced at the direction of Mr. Berger. And if these documents could be spirited away, what other documents could also be stolen? These are important questions that should be examined – and examined *now* – to ensure that the actions of Congress and the Administration in furtherance of the 9/11 Commission's recommendations, which may be the subject of Congressional hearings even during the August recess, are appropriate.

As you well know, we have never said a parallel or related investigation is grounds for not conducting our own investigation on any matter. We have asked whether there are things we can look into and add value. For that reason, your litany of other nonhearings, including matters that are under investigation by the Department of Justice, have not warranted the Committee's immediate involvement.

Investigations are not the same as hearings. Sometimes they demand them, sometimes they do not. Contrary to your assertions, we did look into the Plame matter. I personally met with Joe Wilson, at your request. In addition, we continue to review White House cooperation with the investigation, including the cooperation of White House staff with the Special Counsel's reported request for waivers. And we have followed up the Justice Department to ensure the investigation is moving forward. I have made clear that if the investigation is not rigorous, we are prepared to step in.

We also looked into Abu Ghirab. We met with the General Services Administration to review the status of the contracts of the companies involved, and we continue to monitor information on that situation. In addition, I am the one who advised the CEOs of the contractors to sit down and meet with you. Surely you have not forgotten that?

Regarding the Berger matter, I will let the investigation take its course, and go where the facts lead us. The Committee will investigate the matter to determine whether hearings would be appropriate, a conclusion that we have not yet reached – but one you apparently have already reached with respect to multiple other matters, in some cases without any investigation of your own of which I am aware.

But, frankly, I am dumbfounded by your reluctance to investigate a matter squarely within our Committee's jurisdiction: the protection of highly classified documents at the National Archives. How can you put conditions on exercising our jurisdiction over this incredibly important matter? Accordingly, the Committee will investigate the Berger matter to ensure that Mr. Berger's removal of documents from the Archives in violation of all security procedures did not impede or improperly influence the conclusions of the 9/11 Commission and to ensure that security procedures at the Archives are adequate.

While your letter recites alleged failures to investigate misleading statements by the Administration, it contains misleading statements of its own. Your letter suggests that the press release that I issued on the 9/11 Commission's report called for an investigation of the Berger matter. Not so. My statement on the Berger investigation was issued on July 21, 2004, the day before the Commission's report was issued. Now that the report has been issued and we have had a chance to read it, I am considering holding a hearing on the report's recommendations as early as next week.

I also did not notice your call for Committee action on the 9/11 Commission's recommendations. Instead, you and your staff have apparently spent the past week writing a seven-page letter decrying the failure of the Committee to pursue your partisan agenda.

Let me take a moment to remind you of just some of the meaningful, nonpartisan oversight work the Committee has taken under my leadership: Four hearings into Iraqi reconstruction and contracting; two hearings on the issue of lead in the District of Columbia water system; hearings on mad cow disease, the US-VISIT entry/exit system (the subject of a recommendation of the 9/11 Commission), and transportation security (a serious deficiency identified by the 9/11 Commission). These are serious issues that confront the United States and warrant the Committee's attention. These are the priorities of the American public, and they should be yours as well.

I am proud of the oversight and investigations work of this Committee. No reasonable person can look at the totality of our record and conclude anything other than we have undertaken an extensive, rigorous and fair policy of oversight on matters crucial to the well-being of the American people.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom", followed by a horizontal flourish.

Tom Davis
Chairman